

REMARKS

The present amendment is submitted in response to the Office Action dated September 5, 2007, which set a three-month period for response. Filed herewith is a Request for a One-month Extension of Time, making this amendment due by January 5, 2008.

Claims 1-2, 4-13, and 15-18 are pending in this application.

In the Office Action, claims 1, 2, 4-13, and 15-18 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1, 2, 4-11, 15, 16, and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,840,762 to Kasabian. Claims 12, 13, and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kasabian in view of U.S. Patent No. 6,296,427 to Potter et al.

In the present amendment, claims 1 and 7 were amended to address the rejection under Section 112, second paragraph, by defining that the “through openings (14) have a conical shape *with respect to a longitudinal axis of the through openings*”.

With regard to the Examiner's question as to “where is the cross sectional area measured”, the Applicants respectfully submit that the cross sectional area refers to the “area” which is defined by the cross section which lies in one plane with an outer surface of the housing 10 or of the plate, respectively. This feature is show in Figs. 1, 2a, 2b, and 2d of the present application.

In addition, on page 6, lines 28-34 of the present application, which refers to the cylindrical embodiment shown in Fig. 2c, it is disclosed that through openings 14 with an especially preferred diameter of approximately 1 mm, or a cross sectional area of approximately 3 mm², is favorable. These dimensions are also valid for the conical embodiment, as can be seen from Fig. 2d. Even if the areas are varying with respect to the longitudinal axis of the through openings 14 due to different cross sections or the conical shape of the through openings 14, respectively, the properties of the through openings 14 are defined by the “largest” cross section.

In addition, claims 4 and 9 were amended to define that “*the at least one crosswise length corresponds to a cross section of the through openings (14) which lies in one place with an outer surface of the housing (10) and of the plate*”, as shown in Figs. 1, 2a, 2b, and 2d.

Regarding the objection to claims 5 and 16, the Applicants respectfully submit that the terms “conical” and “round” are not contradictory. A body can have both shapes, for example, when a three-dimensional body, for example a truncated cone, is viewed from different directions or when different planes of the body are viewed, respectively.

As shown in Fig. 2b, a top view of the through openings 14, the through openings 14 are embodied as round. Moreover, when the openings are viewed in a sectional view, as can be seen in Fig. 2d, the shape of the through openings 14 is conical. Therefore, an embodiment as round and one as conical are not exclusive to one another.

Claim 6 was amended to change “potted” to “encased”.

Finally, claim 13 was amended to define that the groups 28 are separated from each other by “different” rib widths to correct a typographical error made in a prior amendment.

The Applicant respectfully submits that the present invention as defined in the amended claims is neither anticipated by nor made obvious over the cited references.

The Applicants respectfully disagree with the Examiner’s conclusion on page 30 of the Office Action that it would be an obvious design choice to provide the openings of Kasabian et al with a different shape, i.e., the conical shape as recited in claim 1. As argued previously, the conical design of the through openings not only offers improved air flow so that cooling is more efficient, but additionally, the conical through openings (14, 14’) improve the noise reduction because a coolant flow in a housing of a power tool is substantially non-directional and widely fanned out.

Kasabian offers no suggestion to the practitioner that the shape of the openings could be modified to improve BOTH air flow AND noise reduction. With the present invention, the mechanical stability of the arrangement is preserved substantially unchanged, even if the number of through openings, and therefore, the total area are greatly increased because of this conical shape.

Therefore, the Applicants respectfully submit that since Kasabian is completely silent as far as any modification of the through openings in any manner, the proposed modification constitutes impermissible hindsight, in which

only knowledge of the present invention provides the requisite motivation for altering the cited reference. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992).

Likewise, the Potter et al reference shows only slits 62, 64 which are not conically shaped.

It is respectfully again submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01.

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to resolves any issues in order to expedite placement of the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long horizontal flourish extending to the right.

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